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10 UNITED STATES DISTRICT COURT
11
12 CENTRAL DISTRICT OF CALIFORNIA
13
14 WESTERN DIVISION

15 UNITED STATES OF AMERICA,
16 Plaintiff,

17 v.

18 KOREA TIMES LOS ANGELES, INC.,
19 Defendant.

Civil No. CV 23 CV 10356 JAK BFM

RULE 26 (f) REPORT; SCHEDULE OF
PRETRIAL DATES

Scheduling Conference:
Under Submission / No Hearing

Joint Report Due: May 3, 2024

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21
22 **Rule 26(f) Report**
23

24 The parties have met and conferred in accordance with Rule 26 of
25 the Federal Rules of Civil Procedure. They have discussed issues
26 related to this litigation, exchanged information, and jointly file
27 this report per the court's order at docket # 10.
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1
2 a. Summary of the Case and Principal Issues.

3 The government alleges that defendant (KTLA / taxpayer) owes
4 unpaid income tax, penalties, and interest for the tax year 2011.
5 The unpaid liability as of the date of the complaint is approximately
6 \$7.9 million. The government by its complaint seeks to reduce KTLA's
7 unpaid tax debt to judgement. In order to prevail the government has
8 the burden to show that the unpaid tax, penalty, and interest
9 assessments the IRS has made against KTLA are correct, and that the
10 unpaid amounts are due and owing. In order to meet its burden the
11 government intends to introduce evidence showing, among other things,
12 that on or about September 17, 2012, KTLA filed its 2011 corporate
13 tax return (Form 1120) reporting to the IRS that its tax due for the
14 year was \$4,689,432. KTLA failed to pay the self-reported tax due at
15 the time it filed its 2011 tax return. Later, an income tax audit of
16 KTLA's 2010 corporate tax return (Form 1120) was conducted by the
17 IRS. This audit resulted in an agreed to tax deficiency of
18 approximately \$4 million for the tax year 2010. The primary
19 adjustment for the tax year 2010 was to income from cancelation of
20 indebtedness. According to the IRS, there remains a substantial
21 unpaid tax debt for the tax year 2010. The IRS also conducted an
22 audit of KTLA's 2011 tax year, the tax year at issue in this case.
23 This audit resulted in an adjustment in favor of KTLA in the amount
24 of approximately \$3.4 million, the IRS concluding that KTLA was
25 entitled to an additional deduction in the amount of \$3.4 million for
26 its recovery of the cancellation of debt exclusion under Internal
27 Revenue Code Section 26 U.S.C. Section 108. Per this audit
28 adjustment, KTLA's tax due as shown on its 2011 tax return was

1 reduced from approximately \$4.6 million to \$3.4 million. The tax due
2 for the year 2011, plus penalties and interest, remains unpaid, and a
3 debt is owed to the United States in approximately \$7.9 million as of
4 the date of the complaint.

5 KTLA alleges KTLA does not owe the tax, penalties and interest
6 in the amounts claimed by the government. KTLA alleges that the
7 claimed amounts are unlawful, invalid, incorrect and miscalculated,
8 for multiple reasons. In particular, KTLA alleges that no penalties
9 and no interest on penalties could or should have been imposed on
10 KTLA for any failure to pay tax or perform its tax-related
11 obligations because there existed and exist defenses to such
12 penalties, including, without limitation, the fact that any such
13 failure resulted from reasonable cause and not from willful neglect.

14 b. Subject-Matter Jurisdiction.

15 The Court has jurisdiction over this suit by operation of 28
16 U.S.C. Sections 1331, 1340, and 1345, and 26 U.S.C. Section 7402.

17 c. Legal Issues.

18 1. Is KTLA's tax due as corrected by the IRS for the year
19 2011 \$3,491,546.

20 2. Does there remain an outstanding balance due the IRS
21 for the tax year 2011, including penalties and interest, in the
22 amount of approximately \$7.9 million.

23 3. Was the government's suit timely filed.

24 d. Parties and Non-Party Witnesses.

25 The parties are the United States and Korea Times Los Angeles,
26 Inc.

1 The currently identified non-party witnesses are: James Chi;
2 Saif; Vincent Davis; Jerry Nielsen; Samantha Smith; Garrett Hahn;
3 Jeremy Rosenthal; Gary Kim; Jae Min Chang.

4 For conflict purposes, KTLA's discloses the following
5 subsidiaries, parents, affiliates and shareholders: FM Seoul Bang
6 Song, Inc., The Korea Times New York, Inc., PAKO Realty Corp., The
7 Korea Times Seattle, Inc., The Korea Times Washington D.C., Inc., The
8 Korea Times San Francisco, Inc., The Korea Times Chicago, Inc. and
9 Jae Min Chang

10 e. Damages.

11 None sought.

12 f. Insurance.

13 None.

14 g. Motions.

15 Motions regarding amended pleadings, additional parties, or a
16 change in venue are not anticipated.

17 h. Manual for Complex Litigation.

18 The manual is not applicable to this case.

19 i. Status of Discovery.

20 No formal discovery has been propounded. The government has
21 produced key documents from the IRS' administrative file and has made
22 the IRS Revenue Agent who conducted the audits available for informal
23 questioning at a meeting of counsel.

24 j. Discovery Plan.

25 1. *Initial Disclosures.*

26 The parties have made initial disclosures, and continue to
27 informally exchange information. The government has produced
28

1 documents from the IRS's administrative files, including information
2 relating to the 2010 and 2011 audits, and copies of certified
3 transcripts showing the 2011 tax due and owing.

4 2. *Discovery Plan.*

5 The parties anticipate written discovery, requests for
6 production of documents, and depositions.

7 Government's discovery statement: The government will
8 propound written discovery regarding the preparation of the 2010 and
9 2011 tax return, the conduct of the 2010 and 2011 IRS audits, and the
10 failure of KTLA to timely pay the amounts owed. In its answer to the
11 complaint, KTLA has raised numerous defenses, including that KTLA
12 does not owe the stated amounts, it is the wrong party to the
13 litigation, and that the government's suit was filed untimely.
14 Written discovery will also be propounded as to these allegations by
15 defendant. After written discovery is complete, including motions to
16 compel, if necessary, the government anticipates taking the
17 depositions of persons with knowledge matters discussed herein,
18 including the preparation and audits of the 2010 and 2011 KTLA tax
19 returns, and the failure to pay the 2011 tax debts owed by KTLA. The
20 government has currently identified the following persons to be
21 deposed: Garrett Hahn; Jeremy Rosenthal; Gary Kim; Jae Min Chang.

22 KTLA's discovery statement: KTLA will propound written
23 discovery and conduct depositions regarding the specific grounds,
24 details and methodologies for the government's calculation of the
25 individual amounts claimed for the tax, penalties and interests. To
26 the extent the government may deny that KTLA has defenses to the
27 claimed amounts, including the amount of penalties, KTLA also intends
28

1 to propound written discovery and conduct depositions regarding its
2 denial. KTLA intends to depose IRS Revenue Agent Saif Syed, IRS
3 Revenue Agent Vincent Davis, and IRS Appeals Officer Jerry Nielsen
4 and other individuals disclosed through written discovery as having
5 pertinent knowledge.

6 3. *Phased Discovery or Other Limitations.*

7 None.

8 4. *Electronically Stored Information.*

9 The parties do not anticipate issues relating to
10 electronically stored information.

11 5. *Privilege Issues.*

12 The parties have not identified any specific privilege
13 issues.

14 6. *Protective Orders.*

15 The parties do not anticipate requesting protective orders.

16 7. *No Additional Discovery Plan.*

17 The parties request that the Court accept these statements
18 as their discovery plan and that a separate discovery plan is not
19 required.

20 k. Discovery Cut-Off.

21 Per the court's order, the parties propose that the last day to
22 file discovery motions shall be the same as for all motions, February
23 3, 2025.

24 1. Expert Discovery.

25 The parties' proposed dates for expert witness disclosure,
26 initial and rebuttal, and expert discovery cut-off are January 6,
27 2025, January 20, 2025, and February 3, 2025, respectively.

1 m. Dispositive Motions.

2 The parties may file summary judgement motions after discovery
3 is completed to resolve and/or narrow issues. The parties identify
4 the following issues that may be the subject of a dispositive motion:
5 whether the correct amount of tax due for the tax year 2011 is \$3.4
6 million as determined by the government; whether that amount (plus
7 penalties and interest) remains unpaid; and, whether the government's
8 suit was timely file.

9 n. Settlement.

10 The parties select ADR procedure no. 1 and request to appear
11 before a Magistrate Judge of the Court after the conclusion of
12 discovery.

13 o. Trial.

14 The defendant has requested that the case will be tried before a
15 jury. The parties anticipate that the case can be tried in 4 to 5
16 days. The government anticipates calling 4 to 5 witnesses. The
17 defendant anticipates calling 5 to 7 witnesses.

18 p. Trial Counsel.

19 Robert Conte for plaintiff. Pio Kim for defendant.

20 q. Independent Expert or Master.

21 The parties do not recommend the appointment of an independent
22 master or expert.

23 r. Timetable.

24 The timetable of the parties' proposed dates is attached.

25 s. Other Issues.

26 There may be some witnesses using a Korean language interpreter.

27 t. Patent Cases.

1 This is not a patent case.

2 u. Presiding Magistrate Judge.

3 The parties do not elect to have a Magistrate Judge preside over
4 the case.

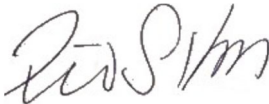
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6 Dated: May 1, 2024

Respectfully submitted,

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9 THOMAS D. COKER
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Chief, Tax Division

10
11 /S/ Robert Conte
12 ROBERT F. CONTE
Assistant United States Attorney

13
14 Dated: May 1, 2024

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18 Counsel for Defendant
19 Korea Times Los Angeles, Inc.
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